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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

<p>LIONEL N. ALLEN; RALPH P. DAVIS; MONICA OATEZ; MICHAEL OATEZ; MARWAN OATEZ; JOHNNY D. STOKES, and, MICHAEL A. FLEURY,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>CITY OF SAN LEANDRO, a municipal corporation; JOSEPH KITCHEN, in his capacity as Chief of Police for CITY OF SAN LEANDRO; and, DOES 1-25, inclusive, individually, and in their capacity as San Leandro police officers,</p> <p><u>Defendants.</u></p>	<p>Action No. C-07-03509-PJH</p> <p>DECLARATION OF GAYLA B. LIBET REGARDING ORDER TO SHOW CAUSE</p> <p>Date: April 17, 2008 Time: 2:30 p.m. Ctrm.: 3 / 17th Floor / S.F. Federal Bldg.</p> <p>Honorable Phyllis J. Hamilton</p>
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I, GAYLA B. LIBET, declare as follows:

1. I am an attorney licensed to practice law before all the courts in the State of California and in the United States District Court-Northern District of California.
2. I represent plaintiffs in this action, along with lead counsel, JOHN L. BURRIS, Esq.

1 3. I make this declaration from my personal knowledge, and if called upon as a witness,
2 I could and would competently testify under oath to the matters stated herein.

3 4. I failed to appear at the Case Management Conference in this case on 3-27-08 at 1:30 p.m. I
4 sincerely apologize to the Court, opposing counsel and to Mr. Burris for my failure to appear.

5 5. Mr. Burris did not know that I was not in attendance at the Case Management Conference, until he
6 received an E-mail from the court and an E-mail from me, on 3-27-08. My E-mail to Mr. Burris
7 stated, as follows:

8 "Regarding the CMC today at 1:30p.m., my sister called me about 12:30 p.m., and said my Mom
9 is really sick and I should come up there to Davis ASAP today. I started packing my stuff, and then I
10 called the court clerk and asked to appear by telephone. I told her (Nicole) that my sister called about
11 my aged Mom being ill, and that I had to go to Davis today and help out ASAP. The clerk said I
12 could not appear by phone, and that they never let counsel appear by phone. I know that Mr. Burris
13 is in depositions today, so he could not appear at the CMC. I am sorry, but I am now getting ready to
14 leave ASAP for Davis. Thanks, Gayla."

15 6. My Mom is 94 years old, and when my sister told me she was sick and my help was needed
16 I became upset and started packing up to take Amtrak up to Davis (I always take Amtrak, since I do
17 not have a car). I was anxious, but it was not an emergency, and so I should have gone to the Case
18 Management Conference, and then gone to Davis later that day. I knew Mr. Burris was tied up in
19 depositions that day in another case, so he could not attend the Case Management Conference. At the
20 very least, I should have the called the court and opposing counsel earlier, to see if the Case
21 Management Conference could be rescheduled.

22 7. My Mom is doing better. Should any future need arise for me to go to Davis on a date when
23 I am scheduled to appear at court, I will handle it by either timely calling the court and opposing
24 counsel early enough to attempt to reschedule; calling Mr. Burris early enough to see if he can attend
25 the court hearing; or, going to the court appearance myself, and then going to Davis later
26 that day.
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1 8. I take full responsibility for this failure to appear, and ask the Court and counsel to accept my
2 apology. I thank Judge Hamilton for her attention to this matter. Again, I apologize for the
3 inconvenience this caused to Judge Hamilton, the Court staff, Mr. Burris, and Ms. Hynes.
4

5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct.
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8 Executed on April 14, 2008 in Oakland, California.
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11 /s/ Gayla B. Libet
12 GAYLA B. LIBET, Esq.
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